NO. 89-1805

Supreme Court, U.S.
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In the Supreme Court of the United States

OCTOBER TERM, 1990

JAMES TERRY WILLIAMSON
Petitioner

V.

UNITED STATES OF AMERICA
Respondent

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

C.E. MORGAN, III
Attorney at Law
MORGAN & MORGAN
P.O. Box 721
108 East Washington
Kosciusko, MS 39090
601-289-2033

A B Letter Service, Inc., 327 Chartres St., New Orleans, La. (504) 581-5555

QUESTIONS PRESENTED FOR REVIEW

1. Whether the United States Court of Appeals for the Fifth Circuit misapplied the "good faith exception; as stated in *United States v. Leon*, 468 U.S. 897, 82 L.Ed. 2d 677, 104 S.Ct. 3405, reh. den. 468 U.S. 1250 82 L.Ed. 2d 942, 105 S.Ct. 52 in light of the United States Supreme Court's rulings in *Illinois v. Gates*, 462 U.S. 213, 76 L.Ed. 2d 527, 103 S.Ct. 2317 and *Malley v. Briggs*, 475 U.S. 335, 89 L.Ed. 2d 271, 106 S.Ct. 1092 (1986).

2. The decision of the United States District Court for the Northern District of Mississippi and prior decisions of the United States Court of Appeals for the Fifth Circuit conflict with decisions or other United States courts of appeal on the issue of constructive possession of jointly owned or occupied premises, Rule 17.1(a) *Supreme Court Rules.*

LIST OF PARTIES

The identity of the parties to this case appears in the caption of the case.

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NO._____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1990

JAMES TERRY WILLIAMSON
PETITIONER

V.

UNITED STATES OF AMERICA
RESPONDENT

OPINION BELOW

The original decision of the United States Court of Appeals for the Fifth Circuit, affirming the convictions of the petitioners is dated February 21, 1990, a copy of which is set forth in the Appendix.

JURISDICTION

Jurisdiction of the Supreme Court is grounded on 28 U.S.C. Section 1254(1).

STATEMENT OF THE CASE

James Terry Williamson, at the age of 18 or 19, in 1962 was convicted of possession of untaxed whiskey, a felony, in the United States District Court for the Northern District of Mississippi. He was placed on probation, the terms of which he met, and was never again charged or convicted of any violation of the law until after 1984.

On November 27, 1984, E. Avery Rollins, Jr., a special agent of the Federal Bureau of Investigation, appeared before Donna P. Bynum, a notary public, and ex-

ecuted a forty page affidavit detailing alleged criminal activity concerning Jack Williamson, James Williamson and James Terry Williamson at their residences and outbuildings at R. 2, Etherl, Attala County, Mississippi. This affidavit was presented to a United States Magistrate for the Northern District of Mississippi on the same date for the purpose of obtaining a search warrant of the Williamson's property. The magistrate issued three warrants, one of which was executed on James Terry Williamson on November 29, 1984. This search resulted in the seizure of numerous weapons on or about the residence property of the petitioner. Similar searches were made of the property of Jack Williamson and James Williamson with similar results.

Approximately four years later on August 18, 1988, just prior to the expiration of the statute of limitations, a federal grand jury returned a five-count indictment against the defendant charging him with violation of Section 1202(a)(1) of Appendix II to Title 18 United States Code and Sections 922(h) and 924 of 18 U.S.C.

Count I concerned the possession of nineteen weapons seized at the joint residence of the petitioner and his wife; Count II concerned the possession of two weapons seized in the petitioner's truck at the residence; Count III concerned the possession of one weapon seized in an outbuilding at the petitioner's residence; Count IV concerned one weapon seized at the joint residence of the petitioner and his wife and Count V concerned the possession of one weapon seized in the petitioner's truck at his residence.

Prior to trial the petitioner filed a motion to suppress the evidence obtained in the search. The district court overruled the motion and allowed the weapons seized into evidence. Except for the weapon described in Count V there

was no testimony at trial placing the petitioner in actual possession of the weapons. In the request for instructions at the conclusion of the trial, the petitioner asked for an instruction on "constructive possession" consistent with the interpretation applied to this term by the Ninth Circuit in *United States v. Reese* 775 Fed. 2d 1066 (9th Cir. 1985). The Court refused this request and applied the interpretation of the Fifth Circuit as defined in *United States vs. Smith* 591 Fed. 2d 1105 (5th Cir. 1979). The Court dismissed Count IV of the indictment and the jury returned verdicts of guilty on Counts I and V and not guilty of Counts II and III. Petitioner was sentenced to concurrent terms of two years each on the guilty verdicts and an appeal was taken to the United States Court of Appeals for the Fifth circuit which affirmed both convictions.

REASONS FOR GRANTING THE WRIT

I

The issue of the leagality of the search warrant was presented to the Fifth Circuit which discussed the issue of probable cause but declined to rule on that issue in light of the "good faith exception" as stated in *United States vs. Leon*, 468 US 897, 82 L.Ed. 2d 677, 104 S.Ct. 3405, reh. den. 468 US 1250 82 L.Ed. 2d 942, 105 S.Ct. 52. The petitioner contends that this determination efffectively eliminates the necessity of probable cause in warrant cases in the Fifth Circuit.

The primary discussion by the Fifth Circuit in regard to probable cause centered on whether the information contained in Agent Rollins' affidavit was stale. It is noted that the Court relied heavily on Paragraph 4 of the affidavit which contained information that was four years old or older at the time of the affidavit and further contained in-

formation from informants whose credibility was not attested to in other than general terms. Apparently, the Court, if it had considered the probable cause issue, would have only considered paragraph 4 and one sentence in paragraph 14 according to footnote 7 of the opinion.

It is obvious from the Fifth Circuit opinion, however, that probable cause was of little consequence in light of *Leon*. This reasoning is not only contrary to the teachings of *Leon*, but is also contrary to rulings in *Illinois vs Gates* 462 US 213, 76 L. Ed. 2d 527, 103 S.Ct. 2317 (1983) and *Malley vs. Briggs* 475 U.S. 335, 89 L. Ed. 2d 271, 106 S. Ct. 1092 (1986).

While *Gates* rejected the prior two-prong tests of "veracity" and "basis of knowledge" as solely determinative for probable cause and placed in its stead "totality-of-the-circumstances", it did not eliminate these elements as prime considerations in the analysis of the "totality-of-the-circumstances". Indeed the Court said,

> "We agree with the Illinois Supreme Court that the informants "veracity", "reliability", and "basis of knowledge" are all highly relevant in determining the value of this report."
>
> * * * * *
>
> "The task of the issuing magistrate is simply to make a practical, common-sence decision whether, given all the circumstances set forth in the affidavit before him, including 'veracity' and 'basis of knowledge' of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place."
>
> * * * * *

> "Our decisions applying the totality-of-the-circumstances outlined above have consistently recognized the value of corroboration of details of an informant's tip by independent police work".

Clearly, the Court intends that warrants be based on facts rather than conclusions whether the facts are direct or based on hearsay. When the affidavit in the present case is stripped of allegations based on conclusions without a factual basis by either the agent or informant, the affidavit is reduced to the "bare bones" affidavits condemned in *Nathanson vs United States,* 290 US 41, 78 L. Ed. 159, 54 S.Ct. 11 (1933), *Aguillar v. Texas* 378 US 108, 84 S. Ct. 1509, 12 L. Ed. 2d 723 (1964), and *Spinelli v. United States* 393 U.S. 410 89 S.Ct. 584, 21 L.Ed. 2d 637.

"Totality-of-the-circumstances" does not envision a recital of a long list of unrelated allegations and conclusions, but, instead, a recital of connected episodes based on reliable information which add up to a logical conclusion. In other words when an affidavit for a search warrant is being used to establish ongoing criminal activity as did the affidavit in this case, the facts alleged must form a material progression up until the application for the warrant.

The affidavit in this case contains fragmented and isolated instances which the government attempted to tie together with conclusions rather than facts. The affadavit attempts to draw its strength from length rather than substance and is subject to analysis by distinct and seperable subdivisions. The first subdivision consists of the qualifications of Agent Rollins and a reference that the Williamsons were known to law enforcement officials to be involved in major criminal activity for a number of years. (The latter statement has been specifically held to be of no value in *Spinelli.*) Since the Agent had no personal

knowledge of any of the Williamson's alleged criminal activity, the attempt to establish his credibility had no relevance.

The second subdivision consists of allegations in paragraph 4 by Terry Rogers Cooper, who had lived with the petitioner from 1974 to 1980. All information given by her concerned activities during that time period and was related by her to the government on July 11, 1984. The activities described consisted of the possession of marijuana in 1979, references to distribution of marijuana in the same year and possession of weapons and stolen property. These allegations were the major allegations in the affidavit against the petitioner.

The third subdivision begins after a two year hiatus starting on October 29, 1982. This subdivision is based on information contained in paragraphs 5, 6, 8, 9, 10, 11, 12, 13 and 16. This elaborate tale began with the report by Charlie McLelland, a government informant, of an unreported plane crash approximately one and one-half miles from the petitioner's residence. Although McLelland makes extensive accusations concerning the Williamson's involvement in the crash, she makes no claim of actual knowledge of the allegations or that they were even made on the basis of hearsay. She even makes allegations that the people involved with the crash were involved with air smuggling of marijuana on the Mississippi Sound without the slightest attempt to enlighten law enforcement officials or a magistrate how she had such information. One way to strengthen her credibility would have been to show that McLelland was involved in the criminal activity and therefore, the allegations were against her penal interest. Since these assertions were not made, it must be assumed that such was not the case. If she were not involved, it would be improbable that she obtained the information

from those involved and indeed, this was not alleged.

The remaining allegations of subdivision three relate a drug operation involving Christopher Kilgus, Paul Gonzales, Robert Allen Schaffer, Stanley Gene Schaffer, Linda Schaffer and John Oliver Hornung none of whom is shown to have known any of the Williamsons. The only reference to the Williamsons was the statement of John Wesley Price that Hornung gestured toward the Williamsons' houses when discussing the plane crash. The whole story of this plane crash and drug operation by non-residents of Mississippi makes great reading but has absolutely nothing in it to tie the petitioner to the operations other than mere speculation.

Subdivision four consist of paragraph 14, 15, 17, 18, and 19. The assertions in these paragraphs contain direct allegations against Jack "Big Boy" Williamson and James "Little Son" Williamson concerning counterfeit money and drugs. The only references to James Terry Williamson was a statement by John McLelland who stated that sometime in the past he had seen the petitioner fire and AR-15 Rifle and a reference by Michael McLelland that the petitioner was present when wooden crates were loaded onto a helicopter. Except for the gun reference, all of the allegations of criminal activity in this subdivision concern parties other than the petitioner.

In summary, we find that subdivision two relates to alleged criminal activity by the petitioner prior to 1980 with the only reference to acts thereafter being an informant's statement of one observation of what at best would have been constructive possession in May, 1984. There is no connection or link between subdivision two and subdivision three as it relates to any criminal activity of the petitioner and the only link between subdivision two and

subdivision four is a vague undated reference to prior possession of a firearm.

It is important to remember that while three separate warrants were obtained, their issuance was based on only one affidavit. This was an obvious attempt to bolster the over-all impact of the affidavit and strengthen the portion concerning the petitioner. However, the validity of the issuance of the warrant to search the petitioner's property should only be measured against those allegations that refer to or implicate the petitioner.

With this concept in mind what did the government have to link the petitioner with ongoing criminal activity? As stated, the activities described in subdivision two were too removed in time to stand on their own. Even acknowledging that guns have attained a certain status in warrant law that extends the time between the receipt of the information concerning the guns and the excution of the warrant a four-year length of time between the same is unreasonable and if the information contained in paragraph four of the affidavit is not stale, then it is unlikely that information concerning guns or weapons could ever be considered stale. In regard to the guns the only reference to the petitioner after 1980 are references to an informed source's observations in May, 1984. (Statement of an informed source again falls within the prohibitions of *Spinelli* and *Aguillar.*) The credibility of this sources was not even attested to with the "bare bones" statement that he had previously supplied truthful information. No allegation is made linking the petitioner's alleged narcotics activity prior to 1980 with the allegations of subdivision three. These allegations reflect the alleged criminal activity of other persons and should not have been considered by the magistrate in issuing the warrant for the petitioner's premises. The attempt by the officers to link them by use

of a single affidavit exhibits bad faith on their part. The Fifth Circuit noted that there were no false accusations apparent on the face of the affidavit. While this may or may not be true, the allegations concerning the marijuana operation on the Mississippi Sound could in no way be said to be relevant to the Williamsons other than for the purpose of bolstering the affidavit.

In applying the *Leon* "good faith exception" the Fifth Circuit fails to take into account *Malley*. In *Malley* the Court said,

> "Petitioner insists that he is entitled to rely on the judgment of a judicial officer in finding that probable cause exists and hence issuing the warrant. This view of objective reasonableness is at odds with our development of that concept in *Harlow* and *Leon*. In *Leon*, we stated that "our good-faith inquiry is confined to the objectively ascertainable question whether a reasonably well-trained officer would have known that the search was illegal despite the magistrate's authorization." 468 US. at 922, 23, 82 L.Ed. 2d 677, 104 S.Ct. 3405. The analogous question in this case is whether a reasonably well-trained officer in petitioner's position would have known that his affidavit failed to establish probable cause and that he should not have applied for the warrant. If such was the case, the officer's application for a warrant was no objectively reasonable, because it created the unnecessary danger of an unlawful arrest. It is true that in an ideal system an unreasonable request for a warrant would be harmless, because no judge would approve it. But ours is not an ideal system, and it is possible that a magistrate, working under 475 US 346 docket pressures, will fail to perform as a magistrate should. We find it reasonable to require the

> officer applying for the warrant to minimize this danger by exercising reasonabloe professional judgment."

In essence the Court is saying that "good faith" begins with the officer and subsequent action by a magistrate based on "bad faith" allegations in the affidavit will not stand. In the present case the officer knew that only a small part of the allegations contained in the affidavit were directed toward the petitioner and that most of the allegations were directed at his father and uncle. The officer concluded that because of the family relationship and the alleged criminal activity of the father and uncle that the petitioner was guilty by association. Since *each* individual is protected by the tenets of the Fourth Amendment to the United States Constitution this was improper conduct on the part of the officer.

II

The district court was presented with various instructions defining constructive possession. One of these instructions states, "You are instructed that the mere fact standing alone that firearms were found at the joint residence of James Terry Williamson and Jeri Williamson is not in and of itself proof of constructive possession of firearms by James Terry Williamson." This instruction was offered by the defense as Instruction No. D-19 and was drawn from the case of *United States v. Reese,* 775 F.2d 1066 (9th Cir. 1985). The district court held that the ruling in *Reese*, 775 F.2d 1066 (9th Cir. 1985). The district court held that the ruling in *Reese* was contrary to the holdings of the Fifth Circuit in *United States v. Smith,* 591 F.2d 1105 (5th Cir. 1979). In the *Reese* case, citing *United States v. Delgado*, 523 F.2d 641, (9th Cir. 1964); *United States v. DiNovo,* 523 F.2d 197, (7th Cir.) cert. den. 423 U.S. 1016,

96 S.Ct. 449, 46 L.Ed. 2d 387; *United States v. Craven*, 478 F.2d 1329, (6th Cir. 1973); and *United States v. Chesher*, 678 F.2d 1353, (9th Cir.) the Ninth Circuit held that joint ownership and/or occupation of a premises by spouses did not without other factors confer constructive possession on one spouse or the other. However, the Fifth Circuit, in the *Smith* case held that "Smith's dominion and control over his own residence in which the gun was found is a sufficient basis for a jury's inference of constructive possession". The Smith residence was jointly occupied and the Court held that that was sufficient to confer constructive possession on both parties. The Fifth Circuit's ruling in *Smith* and other cases has established an inference of constructive possession from jointly owned or occupied property which the Ninth Circuit does not recognize. The facts of the *Reese* case are similar to the facts in the instant case and indicate that a trial in the Ninth Circuit would have resulted in a different conclusion.

CONCLUSION

The petitioner submits that the Petition for Certiorari should be granted and the two firearms convictions be reversed or remanded for a new trial after a hearing on the merits.

C.E. MORGAN, III
Morgan & Morgan
Attorney's at Law
P. O. Box 721
Kosciusko, MS 39090

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 89-4303
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES TERRY WILLIAMSON,

Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Mississippi
CRE 88-64-S)

(February 21, 1990)

Before POLITZ, GARWOOD and JOLLY, Circuit Judges.[1]

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1. Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

GARWOOD, Circuit Judge:

Defendant-appellant, James Terry Williamson (Williamson), appeals his conviction for possessing firearms in violation of 18 U.S.C. app. § 1202(a)(1) and 18 U.S.C. §§ 922(h) and 924, contending that the evidence seized in a search of his residence should have been suppressed because the search that produced it violated his Fourth Amendment rights. We affirm.

FACTS AND PROCEEDINGS BELOW

On November 29, 1984, a task force of state and federal agents executed federal search warrants on several properties in Attala County, Mississippi, including Williamson's home, outbuildings, and vehicle. There, agents discovered nineteen firearms, most of which were loaded, located throughout the house, including handguns, rifles, and an AR-15 assault rifle. Agents also found a Smith and Wesson .44 magnum revolver in Williamson's automobile, as well as other weapons at various locations on his property.

A federal grand jury returned a five-count indictment against Williamson on August 18, 1988. The first three counts charged Williamson with possessing firearms in violation of 18 U.S.C. app. § 1202(a)(1)[2] and the next two with possessing firearms in violation of 18 U.S.C. §§ 922(h) and 924, both of which statutes proscribe felons from possessing firearms.[3] At trial following the presentation of

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2. Section 1202(a) was repealed by Pub.L. 99-308, § 104(b), 100 Stat. 459 (1986), but was in force at the time of the offense.

3. Williams pleaded guilty in 1962 to committing a felony, possessing untaxed whiskey.

evidence, the court directed a verdict as to the fourth count, and the jury returned verdicts of guilty as to the first and fifth counts, acquitting Williamson on the second and third counts. On April 19, 1989, the court sentenced Williamson to two years' incarceration to run consecutive to a sentence imposed on unrelated convictions. This appeal follows.

Discussion

Williamson's contention on appeal challenges the validity of the warrant for the search of his property. He argues that the warrant failed to describe with sufficient particularity the items to be seized and that it was not supported by probable cause. We conclude that neither of these challenges requires exclusion of the evidence.

I. *Particularity of the Warrant*

Williamson first asserts that the search warrant at issue was invalid becuase it was a general warrant in that it failed to describe with sufficient particularity the items to be seized.[4] The Fourth Amendment proscribes search warrants that permit " 'a general, exploratory rummaging in a person's belongings.' " *Williams v. Kunze*, 806 F.2d

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4. As it pertains to the firearms at issue, an attachment to the warrant, which it incorporated by reference, reads as follows:

> *"PROPERTY TO BE SEIZED*
>
> "10. Firearms, including, but not limited to, rifles, shotguns, pistols, revolvers, machine guns, and/or semiautomatic rifles that have been converted to full automatic, hand grenades, grenade launchers, rocket launchers, and/or any type of explosives, and any and all types of items which are a violation of Title 18, United States Code, Section 921, et seq."

594, 598 (5th Cir. 1986) (quoting *Coolidge v. New Hampshire*, 91 S.Ct. 2022, 2038 (1971). The general rule is that a warrant must particularly describe the place to be searched and the persons or things to be seized, such that the executing officer is left with no discretion as to what may be seized. *Marron v. United States*, 48 S.Ct. 74, 76 (1927). However, in circumstances in which detailed specificity is not practicable " 'generic language suffices if it particularizes the types of items to be seized.' " *Williams*, 806 F.2d at 598 (quoting *United States v. Webster*, 734 F.2d 1048, 1055 (5th Cir. 1984)).

Although other portions of the warrant may not have been as particular as necessary to pass constitutional muster (a question we do not decide), the paragraph relating to the evidence at issue was sufficiently detailed to satisfy the Fourth Amendment.[5] It permitted agents to seize firearms, the possession of which, in light of Williamson's 1962 conviction, would be a violation of 18 U.S.C. § 921 *et seq.* The language of the paragraph provided the agents adequate guidance in executing the search, thus comporting with constitutional demands.

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5. Where the entire warrant is not defective, the district court "should sever the infirm portion of the search warrant from so much of the warrant as passes constitutional muster." *United States v. Cook*, 657 F.2d 730, 735 (5th Cir. 1981). Even if part of the warrant were defective, the evidence obtained as a result of a valid section should not be suppressed and severance should occur unless "the circumstances reveal that legitimate fourth amendment interests will . . . be jeopardized." *United States v. Freeman*, 685 F.2d 942, 952 (5th cir. 1982). No such interests would be jeopardized by severance in this instance, as there is no evidence to suggest and Williamson does not assert that "the valid parts of the warrant were 'included by the Government as a pretext to support an otherwise unlawful search and seizure.' " *Id.* (citing *Cook*, 657 F.2d at 735 n.6).

II. *Probable Cause*

Williamson also contends that the search warrant was not grounded on an adequate showing of probable cause because the affidavit on the basis of which the warrant was issued was comprised of stale information.[6] This issue is to be resolved on the facts on a case-by-case basis. *United States v. Webster,* 734 F.2d 1048, 1056 (5th Cir. 1984). Although "fairly long periods of time [may] have lapsed between the information and the issuance of the warrant, the information need not be regarded as stale," depending on the nature of the criminal activity and property sought as well as whether the affidavit demonstrates an ongoing pattern of relevant activity. *Id.*

The nature of the property sought — firearms — allows for the inference that information about the property will not quickly become stale because firearms often are retained for some time (particularly at a residence or place of business such as here), rather than sold, and are " 'not likely to be consumed or destroyed.' " 2 W. LaFave, *Search and Seizure: A Treatise on the Fourth Amendment* §3.7(a) at 84 (1987) (citing *Commonwealth v. Fleurant,* 311 N.E.2d 86 (1974)); *see also id.* at 82-83; *Bastida v. Henderson,* 487 F.2d 860, 864 (5th Cir. 1973); *United States v. McCall,* 740 F.2d 1331, 1337 (4th Cir. .1984). Further, the affidavit here demonstrates a pattern of ongoing relevant criminal activity at the location in question respecting items of the kind sought, another factor that militates against a finding

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6. The government asserts that Williamson — represented by other counsel in the relevant proceedings below — failed to preserve this issue for appeal. We need not and do not reach this question because of our holdings in sections II & III, *infra.*

of staleness.[7] In addition to revealing years of drug activity, the affidavit shows that from 1974 through 1980

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7. The affidavit was executed November 27, 1984, and the warrant was issued by the United States Magistrate that same day; the search occurred two days later. Paragraphs four and fourteen of the affidavit are telling. Paragraph four reads:

> "4. On July 11, 1984, Terry Rogers Cooper advised that in 1974 she began dating James Terry Williamson [our defendant-appellant], who resides near Ethel, Mississippi. While she was dating him, she met his father, James "Little Son" Williamson, and his uncle Jack "Big Boy" Williamson. She continued to date James Terry Williamson until approximately 1975 when she moved in with him and lived first in a trailer and finally in a home which he built near the Williamnsons' country store. She *continued to reside with him until approximately March of 1980* when she left him. Cooper stated that in approximately September or October of 1979, James Terry Williamson had two plastic bags of marijuana. He was discussing with her whether or not she thought she would be able to sell the marijuana and stated, 'That there wasn't any money to be made in whiskey any more . . . dope is where the money is . . . .,' or words to that effect and indicated he was going to become involved in the distribution of marijuana. Later that same year, James Terry Williamson, brought two garbage bags of marijuana to his home, and tried to get Cooper to try it out. He referred to the contents of the base as 'dope.' Cooper has also seen James Terry Williamson prepare small amounts of marijuana in glassine envelopes for distribution to black employees for sale. Three black men who lived near the Williamsons and worked for them later started selling marijuana for James Terry Williamson. Cooper further advised that *the Williamsons dealt on a regular basis with stolen property, including stolen guns.* She advised *James Terry Williamson owned three fully-automatic machine guns, which he kept hidden in the attic of his house* under insulation. She also advised that James Terry Williamson *usually keeps a gun on him and usually has an extra one in his boot.* James Terry Williamson also, during this time frame, operated a gambling establishment in the back room of the country store which the Wiliamsons own.

Williamson always possessed and dealt with firearms, many of which were stolen. The affidavit also demonstrates that in 1983 and much of 1984 Williamson was "usually" armed and that as recently as May 1984 (six months before

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Footnote 7 continued.

> "*Cooper stated James Terry Williamson owns many guns, most of which he keeps in his house. On numerous occasions, they would visit gun stores together for the purpose of purchasing guns.* When James Terry Williamson saw a gun he wanted, he would purchase it with his money but would have the gun registerred in her name.
>
> According to BATF [Bureau of Alcohol, Tobacco, and Firearms], James Terry Williamson has not received 'relief from disability' to own or possess a firearm and that he is not licensed to own or possess a fully automotic weapon. *An informed source, close to James Terry Williamson* and his present alleged wife, Gerry, *advises that James Terry Williamson keeps a large number of firearms in all rooms of his house, and said source personally viewed firearms in several rooms of the house in May of 1984. Another confidential source, who has provided reliable information* to Task Force agents in the past that has proved to be true, *states that James Terry Williamson is always armed* and never travels anywhere without one or more firearms, *and that he maintains a large number of firearms at his home.*
>
> "Cooper stated that James Terry Williamson, Jack "Big Boy" Williamson and James "Little Son" Williamson are very close and secretive about their criminal activities. They only trust each other and what one knows they all know." (emphasis added).

Paragraph fourteen reads in relevant part:

> "John McLelland [a government informant] further advised that he was aware that James Terry Williamson has a AR 15 rifle which has apparently been converted to full automatic. He has seen James Terry Williamson fire this weapon on full automatic. All three of the Williamsons usually are armed and have large amounts of cash with them."

agents obtained the warrant) Williamson possessed several weapons in his home. It additionally shows that in the summer of 1984 Williamson possessed an AR-15 rifle. Further, the second confidential informant mentioned in paragraph 4, who is stated to have previously provided reliable information, is described as asserting that Williamson " maintains a large number of firearms at his home." In light of the nature and location of the property and the ongoing pattern of relevant activity revealed in the affidavit, we cannot say that the affidavit information was stale or that the warrant was not supported by probable cause, "that which warrants a man of reasonable caution in believing that there is a 'practical, non-technical' probability that contraband is present on the premises to be searched." *United States v. Adcock,* 756 F.2d 346, 347 (5th Cir.), *cert. denied,* 105 S.Ct. 2329 (1985) (citing *Texas v. Brown,* 103 S.Ct. 1535, 1543 (1982) (plurality opinion)). *See United States v. Freeman,* 685 F.2d 942, 951-52 (5th Cir. 1982) (May to November); *United States v. Minis,* 666 F.2d 134, 139-40 (5th Cir.) (July to October), *cert. denied,* 102 S.Ct. 2013 (1982); *United States v. Brinklow,* 560 F.2d 1003, 1005-1006 (5th Cir. 1977) (eleven months). *See also Cauchon v. United States,* 824 F.2d 908, 910-11 (11th Cir.) (eleven months), *cert. denied,* 108 S.Ct. 355 (1987); *McCall,* 740 F.2d at 1337 (seven months); *United States v. Rahn,* 511 F.2d 290 (10th Cir. 1975). Finally, "[i]t is axiomatic that . . . the magistrate's finding of probable cause should be sustained in doubtful or marginal cases." *United States v. Maestas,* 546 f.2d 1177, 1180 (5th Cir. 1977).

Footnote 7 continued.

In this paragraph, the affidavit reflects that McLelland is relating events that transpired from 1983 until August 1984 when he departed the area.

III. *Leon and the Good Faith Exception to the Exclusionary Rule*

In any event, we need not reach the probable cause issue because the evidence is admissible under the good faith exception of *United States v. Leon*, 104 S.Ct. 3405 (1984). See also Massachusetts v. Sheppard, 104 S.Ct. 3424 (1984 (failure of warrant to particularly describe items to be seized). Evidence seized by executing agents "acting in objectively reasonable, good faith reliance upon a search warrent issued by a neutral magistrate is admissible, even if the affidavit on which the warrant was based was insufficient to establish probable cause. *United States v. Peden*, 891 F.2d 514, 519 (5th Cir. 1989). Agents, however, "will not be able to claim objective good faith when the warrant is 'based on an affidavit "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable." ' " *United States v. Craig*, 861 F.2d 818, 821 (5th Cir. 1988) (quoting *Leon*, 104 S.Ct. at 3421). Nothing in the record suggests that the affidavit contains false statements or that the magistrate was anything but neutral. Given the indicia of probable cause detailed in section II, *supra*, we must hold that the executing agents acted in objectively reasonable, good faith reliance on the validity of the search warrant. Therefore, the evidence seized from Williamson's property is not subject to the exclusionary rule.

Conclusion

Accordingly, the conviction is

AFFIRMED

APPENDIX B

AFFIDAVIT

1. E. Avery Rollins, Jr., Special Agent, Federal Bureau of Investigation (FBI), Jackson, Mississippi, being duly sworn in the manner provided by law, hereby deposes and states as follows, to-wit:

I have been a Special Agent (SA) with the FBI for nineteen (19) years. I have conducted, or been involved in, narcotics investigations during the past two years which have resulted in the conviction of fifteen (15) persons. In addition, during the last two years, I have participated in the preparation and/or execution of narcotics-related search and arrest warrants and other narcotics raids, which have resulted in arrests, convictions, and recoveries of cocaine and marijuana.

2. Since April, 1984, I have been assigned to the Organized Crime Drug Enforcement Task Force (OCDE-TF) for the State of Mississippi. The OCDE-TF is made up of a number of agents including agents from IRS, DEA, and BATF. During my tenure with this Task Force, I have worked very closely with Special Agents of the Internal Revenue Service (IRS) and the Drug Enforcement Administration (DEA) in the investigation of cases with financial implications involving the distribution of controlled substances and the amassing of proceeds from the sale of controlled substances. I have received specialized training in the area of narcotics-based economic crime. This training has included attending a two-week school on narcotics-related investigations offered by the DEA in December 1983 and a four-day seminar on drug-related financial investigations and asset removal given by the FBI in March of 1984.

3. As a member of the OCDE-TF, I communicate extensively with other federal and state law enforcement personnel who specialize in the area of documentation, identification, and seizure of proceeds of narcotics trafficking and in the tracing of the conversion of such proceeds into other assets. I also have had extensive experience in debriefing defendants, participant witnesses, informants, and other persons who have had personal experience and knowledge in the amassing, spending, converting, transporting, distributing, and concealing of proceeds of narcotics trafficking.

Jack "Big Boy" Williamson, James "Little Son" Williamson and James Terry Williamson, who reside in the Ethel Community area of Attala County, Mississippi have been identified by Federal and State authorities as being involved in major criminal activity for a number of years, including narcotics trafficking. Jack "Big Boy" Williamson and James "Little Son" Williamson are twin brothers and James Terry is the son of James "Little Son" Williamson. All three have prior felony convictions in Federal Court for whiskey violations.

4. On July 11, 1984, Terry Rogers Cooper advised that in 1974 she began dating James Terry Williamson, who resides near Ethel, Mississippi. While she was dating him, she met his father, James "Little Son" Williamson, and his uncle, Jack "Big Boy" Williamson. She continued to date James Terry Williamson until approximately 1975 when she moved in with him and lived first in a trailer and finally in a home which he built near the Williamsons' country store. She continued to reside with him until approximately March of 1980 when she left him. Cooper stated that in approximately September or October of 1979, James Terry Williamson had two plastic bags of marijuana. He was discussing with her whether or not she

thought she would be able to sell the marijuana and stated, "That there wasn't any money to be made in whiskey any more . . . . dope is where the money is . . . .," or words to that effect and indicated he was going to become involved in the distribution of marijuana. Later that same year, James Terry Williamson, brought two garbage bags of marijuana to his home, and tried to get Cooper to try it out. He referred to the contents of the bags as "dope". Cooper has also seen James Terry Williamson prepare small amounts of marijuana in glassine envelopes for distribution to black employees for sale. Three black men who lived near the Williamsons and worked for them later started selling marijuana for James Terry Williamson. Cooper further advised that the Williamsons dealt on a regular basis with stolen property, including stolen guns. She advised James Terry Williamson owned three fully-automatic machine guns, which he kept hidden in the attic of his house under insulation. She also advised that James Terry Williamson usually keeps a gun on him and usually has an extra one in his boot. James Terry Williamson also, during this time frame, operated a gambling establishment in the back room of the country store which the Williamsons own.

Cooper stated James Terry Williamson owns many guns, most of which he keeps in his house. On numerous occasions, they would visit gun stores together for the purpose of purchasing guns. When James Terry Williamson saw a gun he wanted, he would purchase it with his money but would have the gun registered in her name.

According to BATF, James Terry Williamson has not received "relief from disability" to own or possess a firearm and that he is not licensed to own or possess a fully automatic weapon, An informed source, close to James Terry Williamson and his present alleged wife, Gerry, advises that James Terry Williamson keeps a large number of

firearms in all rooms of his house, and said source personally viewed firearms in several rooms of the house in May of 1984. Another confidential source, who has provided reliable information to Task Force agents in the past that has proved to the true, states that James Terry Williamson is always armed and never travels anywhere without one or more firearms, and that he maintains a large number of firearms at his home.

Cooper stated that James Terry Williamson, Jack "Big Boy" Williamson and James "Little Son" Williamson are very close and secretive about their criminal activities. They only trust each other and what one knows they all know.

5. On October 29, 1982, Charlie McLelland, Route 1, Box 89, Ethel, Mississippi, telephonically contacted Special Agent Dick Boyles of the DEA to advise him of an unreported plane crash on a gas pipeline right-of-way near Ethel, Mississippi. McLelland indicated the crash was drug related.

6. On October 30, 1982, Special Agents of the FBI and DEA located the crash site, which is approximately one and one-half miles in a southeasterly direction from the residences of Jack "Big Boy" Williamson, James "Little Son" Williamson, and James Terry Williamson. This crash site is also located less than a mile from the residence of Charlie McLelland.

Charlie McLelland subsequently contacted SA Boyles or Boyles secretary a total of five time in November of 1982. During these contacts, she advised that Jack "Big Boy" Williamson, James "Little Son" Williamson, and James Terry Williamson had all been involved in the air smuggling of approximately *1900 pounds* of cocaine which

had been carried by the plane which crashed on the gas pipeline right-of-way. McLelland advised after the plane crash occurred, the Williamsons assisted in the removal of two of the bodies and the later recovery of several hundred pounds of cocaine which had been air dropped prior to the crash of the aircraft. McLelland stated the Williamsons assisted in this by an individual indentified to her as Bob or "Pop" Anderson of Georgia. After viewing a photographic spread, McLelland identified a photograph of Robert Lee Anderson as being the individual who he observed assisting the Williamsons. McLelland went on to say they had moved some of the cocaine to the area of Memphis, Tennessee, to sell.

On April 24, 1984, human remains were recovered near the site of the plane crash described above. Subsequent laboratory examination determined these remains to be those of Robert Allen Schaffer. Approximately one gram of white powder residue was recovered from the plane crash site, and lab analysis reveals the substance to be cocaine of approximately ninety percent (90%) purity.

McLelland further advised this group was part of the same group which had been involved in the air smuggling of approximately eighty (80) bales of marijuana which were dropped in the Mississippi Sound in February of 1982. She stated the marijuana which had been dropped into the Sound had been destined for Attala County.

7. McLelland also advised that at one time the Williamsons had a marijuana field in the same area of the plane crash and also at one time they had been involved in plans to set up a PCP lab in the area.

8. In March of 1982, United States Customs investigated the recovery of eighty-one (81) bales of mari-

juana from the Mississippi Sound in Harrison County, Mississippi. This investigation determined that on March 3, 1982, at approximately 3:00 A.M., the control tower at the Gulfport/Biloxi Regional Airport was contacted by the pilot of an incoming aircraft, identifying itself as N608L. The pilot advised the control tower his aircraft was experiencing engine trouble. The aircraft was cleared for landing but continued to circle in the area of the Mississippi Sound approximately thirty (30) minutes before finally landing at the Gulfport/Biloxi Regional Airport. The pilot of aircraft N608L was Christopher Kilgus and his crew member identified himself as Paul Gonzales. Aircraft N608L was seized by U. S. Customs, and a search subsequently recovered marijuana residue and approximately one-half ounce of cocaine. Between approximaately 8:00 A.M. and 2:00 P. M. on March 3, 1982, eighty-one (81) bales of marijuana weighing approximately six thousand seven hunderd (6,700) pounds were recovered from the Mississippi Sound between Biloxi and Long Beach, Mississippi.

9. On May 29, 1984, Linda Schaffer, wife of Robert Allen Schaffer, Norman, Oklahoma, advised that her husband and his brother, Stanley Gene Schaffer, were involved in the aircraft smuggling of narcotics into the United States. Her husband had flown loads of marijuana on a regular basis for Paul Gonzales, who she had known since 1979. She advised that on October 18, 1982, she was contacted by Paul Gonzales' mother and father. They advised her they had been contacted by their son, who advised there had been a plane crash, and it was not known if there were any survivors. Subsequently, her sister-in-law, Donna Schaffer; her attorney John Oliver Hornung; a friend, John Wesley Price; and others traveled to Mississippi to investigate the plane crash. Schaffer advised that Paul Gonzales later contacted her and said only about half the load got off the aircraft. He advised her that because of this, she

could only get approximately one hundred ninety thousand dollars ($190,000) instead of the one-half million dollars ($500,000) which had been promised her husband for flying the load in. Gonzales later directed her to a hotel in Norman, Oklahoma, and a second hotel in Oklahoma City, Oklahoma, where she was given suitcases of money. The total amount of money given to her for herself and her sister-in-law, Donna Schaffer, was approximately three hundred eighty four thousand dollars ($384,000).

10. Linda Schaffer subsequently directed federal agents to the location and recover of one hundred ninety seven thousand four hundred dollars ($197,400) of this money furnished her by Paul Gonzales.

11. On June 19, 1984, John Wesley Price, Jr., Weatherford, Oklahoma, advised that in October of 1982, he, Billy Howell, and John Hornung had flown in Hornung's helicopter from Jackson, Mississippi, to the site of the airplane crash near Ethel, Mississippi. While inspecting the crash site, they discovered the body of Robert Allen Schaffer. Schaffer's body was taken from the airplane wreckage and placed in the woods some distance therefrom. While flying over the crash site area in the helicopter, Hornung advised Price that some local residents had taken care of the other two bodies and had been paid twenty thousand dollars ($20,000) for doing so. When Hornung indicated that local residents had assisted in disposing of the bodies, he gestured toward the Williamson's houses. Hornung is presently a fugitive from federal prosecution.

12. On June 13, 1984, Special Agent Fran Wiley, Georgia Bureau of Investigation (GBI), advised that in December of 1982, a GBI confidential informant met with Robert Anderson and W. A. Hardin near Dawsonville,

Georgia. During this meeting, conversation took place concerning two hundred (200) kilograms of cocaine which the group had stored near Dawsonville, Georgia. It was related to the confidential informant during his meeting that the cocaine had been acquired from a drug deal in Mississippi that had gone bad due to a plane crash. W. A. Hardin is a known narcotics associate of Robert Anderson. Anderson is a former moonshine whiskey dealer and longtime associate of Jack "Big Boy" Williamson and James "Little Son" Williamson.

13. On June 1, 1984, the Federal Grand Jury for the Southern District of Mississippi returned an indictment charging Robert Lee Anderson, Paul Gonzales, and John Oliver Hornung with violation of Title 21, U. S. Code, §846; Title 18, U. S. Code, §371; and title 49, U. S. Code, §1472(p).

14. On May 15, 1984, John R. McLelland, Route 1, Box 89, Ethel, Mississippi, advised he was the son of Charles McLelland. He advised his mother died of a heart attack in December of 1982. He is aware of the fact his mother is related to Jack "Big Boy" Williamson, James "Little Son" Williamson, and James Terry Williamson. He and his brother, Mike McLellans, normally reside in southern California. In Approximately June of 1982, he and his brother, Mike McLelland, came to visit their parents, whose residence is located near those of the Williamsons. During this short vacation, the Williamsons got them involved in different types of criminal activity. On one occasion, they assisted the Williamsons in unloading some small John Deere lawn tractors which were apparently stolen. John McLelland also advised that Jack "Big Boy" Williamson had discussed the handling of money and banks with him. McLelland stated that Jack "Big Boy" Williamson told him not to keep money in the bank that was how the Government kept tabs on you. He

further stated he had asked Jack ""Big Boy"" Williamson what he did with his money. Williamson told him that he bought gold, silver, and other negotiable items. Williamson also stated he did not want to give the Government money because the Government did nothing for him. McLelland and his brother also were asked by James "Little Son" Williamson to assist in passing counterfeit one hundred dollar bills ($100) bills and counterfeit twenty ($20) bills.

Agents of the United States Secret Service recovered in excess of two hundred fifty thousand $250,000 in counterfeit twenty dollars fills from one Earl "Fattie" Cooper during 1982. Cooper told agents of the Secret Service that he had delivered an additional ten thousand dollars ($10,000) in counterfeit twenty dollar bills to an intermediary.

The intermediary told investigators for the State of Mississippi that he delivered the ten thousand ($10,000) in counterfeit twenties to Jack "Big Boy" Williamson in the fall of 1981.

Additional investigation by Secret Service in the Attala/Winston County area resulted in the recovery of seven additional counterfeit twenty dollar bills. Two McCool, Mississippi, residents stated that on or about June 22, 1982, they received counterfeit twenties, when they cashed their payroll checks aat Williamson's store, Rt. 1, Ethel, Mississippi.

These counterfeit bills were compared to the counterfeit bills seized from Earl "Fattie" Cooper. They were manufactured from the same plates and bear the same serial numbers as the bills seized from Cooper.

The full amount of counterfeit delivered to the

Williamsons during 1982 has not been recovered. Based on past experience and official information from agents of the U. S. Secret Service, persons dealing in counterfeit money are known to secret and hide counterfeit often in their homes, to avoid prosecution.

John McLelland further advised he was aware that James Terry Williamson has a AR 15 rifle which has apparently been vonverted to full automatic. He has seen James Terry Williamson fire this weapon on full automatic. All three of the Williamsons usually are armed and have large amounts of cash with them. He also believes the Williamsons deal on a regular basis with "hot" jewelry. McLelland also stated that the Williamsons "fronted" marijuana to employees who sold marijuana at the store and elsewhere on a continuing basis. McLelland has personal knowledge of sale of marijuana at the Williamson store and by employees/associates of the Williamsons during 1983 and continuing until he left the area in August 1984. A confidential source, who has provided reliable information in the past stated that the trailer on "Mundy Road" is a place where the Williamsons store marijuana as well as other contraband and stolen property. This information has been corroborated by John R. McLelland who stated he had seen contraband stored in the trailer along with large plastic garbage bags commonly used to store marijuana and the same type of bag in which James Terry Williamson brought marijuana to his home according to Terri Cooper. The trailer on "Mundy Road" and the approximately forty (40) acres it sits on is owned by James Terry Williamson. James Terry Williamson bought this property and trailer in 1981 for $18,000.00, cash.

On November 26, 1984, a confidential informant who has furnished reliable information in the past stated that he/she observed marijuana being sold at the Williamson's

store on November 23, 1984 and that a Williamson employee told the informant that a supply of marijuana would be received the week of November 26, 1984.

15. Michael Gene McLelland, San Bernardino, California, on August 5, 1984, advised he is the son of Charlie McLelland, who used to reside near Ethel, Mississippi, near her cousins, Jack "Big Boy" Williamson and James "Little Son" Williamson. McLelland stated that in approximately June of 1982, he visited with his father and mother at their residence in Ethel, Mississippi. The reason he came to Ethel was because Jack "Big Boy" Williamson needed help in growing and propagating a marijuana crop which he had growing near his property. When McLelland arrived there, the crop had already been started and consisted of hundreds of plants. While he was assisting in the propagation of the marijuana, the Williamsons also got him involved in other criminal activities. On one occasion, Jack "Big Boy" Williamson had him burn a car for insurance purposes. On another occasion, he assisted James "Little Son" Williamson in passing between six hundred dollars ($600) and eight hundred dollars ($800) in counterfeit twenty dollar bills in the area between Ethel and Kosciusko, Mississippi.

16. Michael McLelland advised he returned to San Bernardino and was residing there in October 1982, when he received a telephone call from his mother. His mother advised him that on this same day she had received a call from Jack "Big Boy" Williamson, who told her a plane would be making several low passes near her farm that night. Williamson advised her not to be concerned with the plane as they knew all about it. McLelland advised approximately a week later, his mother again called him and stated that in reference to her earlier phone call, the plane had crashed the same night she had talked to him. She ad-

vised James "Little Son" Williamson and Jack "Big Boy" Williamson were present and nearby the plane when it crashed. She further advised the Williamsons had recovered approximately five hundred (500) pounds of cocaine that had been airdropped by the aircraft. The Williamsons had insisted on storing this cocaine in the shed behind her house, fearing if the "Mafia" came looking for the cocaine, their property would be searched.

McLelland advised his mother died in December of 1982, and he returned to Ethel, Mississippi, immediately thereafter where he remained until approximately May of 1983. During this time, he got more heavily involved with the Williamsons in their criminal activities. Jack "Big Boy" Williamson gave him two thousand dollars $2,000 cash for the marijuana which McLelland had earlier grown for him. Later, because of the "heat" generated by the plane crash nearby, the Williamsons had him destroy approximately five hundred (500) marijuana plants in January or February of 1983.

McLelland further advised during the first week of January, 1983, Jack "Big Boy" Williamson came up to his house after midnight and told him to go with him. He got in Williamson's truck, and they drove towards Carthage, Mississippi. They left the highway and drove into a wooded area and then into an open field. At about that time, James Terry Williamson and another individual drove up. While the four of them were talking, a helicopter descended and landed in the field. He and the unknown individual with James Terry Williamson were then directed by the Williamsons to load ten wooden crates onto the helicopter. The crates weighed between forty (40) and fifty (50) pounds. After loading the crates on the helicopter, it flew off, and he and Jack "Big Boy" Williamson left the area. The size, weight and amount of the crates are consistent

with the approximately five hundred (500) pounds of cocaine in the shed on the McLelland's property, according to Charlie McLelland.

Michael McLelland was displayed a lineup photograph consisting of the photos of eight white males. After closely examining this photographic spread, he identified Robert Lee Anderson as being an individual who he had seen at Jack "Big Boy" Williamson's residence in March, 1983. Williamson introduced this individual to McLelland as being named "Pops." McLelland later saw "Pops" around the area of the Williamsons' store approximately ten time during the month of March, 1983.

McLelland stated on one occasion James Terry Williamson mentioned to him they had used an acetylene torch to cut up the aircraft which had crashed nearby.

McLelland further advised during this same time frame, James "Little Son" Williamson showed him a grenade launcher and several hand grenades. These items were located in Williamson's residence. McLelland also advised he has seen a storage site near his mother's home on property owned by "Big Boy" Williamson where the Willaimsons keep some of their stolen goods and/or contraband. This location is northeast of his mother's residence and had what appeared to be a couple of machine guns, some stolen jewelry, possible some gold, and some other items located there. The items were covered by a green tarpaulin, and the site was well camouflaged to keep anyone from noticing it.

17. In June of 1984, a confidential source, formerly employed at the Peoples Bank of Mississippi, Louisville, Mississippi, advised on numerous occasions he/she saw Jack "Big Boy" Williamson, James "Little Son" William-

son, and Vera Williamson come into Peoples Bank to conduct business. They would meet privately with the president of Peoples Bank. This confidential source further advised he/she became aware of the flow of monies in and out of Peoples Bank on behalf of the Williamsons, which flow of money was not recorded on Currency Transaction Reports as required by federal law. He/she also became aware that the Williamsons were taking out certificates of deposit in the names of persons other than themselves, including the name John R. McLelland.

18. In October 1984, another confidential source who has furnished reliable information in the past, advised that during the week of October 22, 1984, the Williamson store illegally purchased food stamps and accepted food stamps for the purchase of nonqualifying items. According to this source the Williamsons have dealt illegally in food stamps for a number of years, and this has been and is a continuing activity on behalf of the Williamsons.

19. On September 25, 1984, John R. McLelland advised he was not aware of any certificates of deposit being taken out in his name by the Williamsons. McLelland further advised the Williamsons kept two sets of records for their country store which is located near their residences. One set of books is for tax-reporting purposes, and the other is for the purpose of keeping a true account of the income and outgo of their money.

20. Investigations by agents assigned to the OCDE-TF has determined Jack "Big Boy" Williamson, James "Little Son" Wiiliamson, and James Terry Williamson have purchased numerous expensive vehicles and have added numerous outbuildings of expensive construction to their property. Despite extensive investigation, the agents of the OCDE-TF have been unable to discover any

legitimate source of sufficient income by Jack "Big Boy" Williamson, James "Little Son" Williamson, or James Terry Williamson to account for these expenditures.

Information obtained by agents assigned to the OCDE-TF has shown that Jack "Big Boy" Williamson, James "Little Son" Williamson, and James Terry Williamson maintain safe deposit boxes at the Deposit Guaranty National Bank, 101 East Jefferson, Kosciusko, Mississippi. The following provides the box numbers and the signators:

Box Number	Signators
525	Jack Williamson Alice Williamson Jerry Williamson Ginger Hopkins
496	James Williamson Vera Williamson
492	James Terry Williamson Vera Williamson

Entries were made to these boxes on numerous occasions during the period covered by the OCDE-TF investigation.

I know that persons involved in large scale drug trafficking conceal in their safe deposit boxes drugs, large amounts of currency, financial instruments, precious metal, jewelry and other items of value and/or proceeds of drug transactions and evidence of financial transactions relating to obtaining, transferring, secreting, or spending of large sums of money made from engaging in narcotics

trafficking activities.

21. Based on my training, experience, and my participation in other investigations involving large amount of cocaine and marijuana, I know

A) That drug traffickers often place assets in names other than their own to avoid detection of these assets by government agencies;

B) That I know that even though these assets are in other persons' names, the drug dealers continue to use these assets and exercise dominion and control over them;

C) That I know that large-scale narcotics traffickers must maintain on hand larged amounts of U.S. currency in order to maintain and finance their ongoing narcotics business;

D) That I know that drug traffickers maintain books, records, receipts, notes, ledgers, airline tickets, money orders, and other papers relating to the transportation, ordering, sale, and distribution of controlled substances; that cocaine and marijuana traffickers commonly "front" (provide the drugs on consignment) drugs to their clients; that the aforementioned books, records, receipts, notes, ledges, etc., are maintained where the cocaine traffickers have ready access to them;

E) That I know it is common for large-scale dealers to secrete contraband, proceeds of drug sales, and records of drug transactions in secure locations within their residences for ready access and to conceal from law enforcement authorities;

F) That I know that persons involved in large-scale

drug trafficking conceal in their residences caches of drugs, large amounts of currency, financial instruments, precious metals, jewelry, and other items of value and/or proceeds of drug transactions, and evidence of financial transactions relating to obtaining, transferring, secreting, or spending of large sums of money made from engaging in narcotics-trafficking activities;

G) That I know that when drug traffickers amass large proceeds form the sales of drugs, that the drug traffickers attempt to legitimize these profits; that I know that to accomplish these goals, drug traffickers utilize, including but not limited to, foreign and domestic banks and their attendant services, securities, cashiers checks, money drafts, letters of credit, brokerage houses, real estate, shell corporations and business fronts;

H) That I know that cocaine is not commonly manufactured within the United States, and the State of Mississippi is not a major distribution point for cocaine within the United States; that I know it is common for cocaine traffickers to travel to major distribution centers, such as Miami, Florida; Los Angeles, California; or New York City to purchase cocaine; that I know after purchasing cocaine, these cocaine traffickers will transport or cause to be transported cocaine to the areas in which they will distribute the cocaine; that I know the methods of transportation include, but are not limited to, commercial airlines, private airplanes, rental autombiles, private automobiles, and government and contract mail carriers;

I) That I know cocaine traffickers commonly maintain addresses or telephone numbers in books or papers which reflect names, addresses, and/or telephone numbers for their associates in the trafficking organization, and that such books and papers are commonly kept at the traf-

fickers residence and/or on their person.

J) That I know drug traffickers take or cause to be taken photographs of them, their associates, their property, and their product; that these traffickers usually maintain these photographs in their possession; or in their possession.

K) That I know cocaine traffickers usually keep paraphernalia for packaging, cutting, weighing, and distributing of cocaine; that these paraphernalia include, but are not limited to, scales, plastic bags, and cutting agents.

L) That I am aware the courts have recognized that unexplained wealth is probative evidence of crimes motivated by greed, in particular, trafficking in controlled substances.

M) Preliminary finding of the criminal income tax investigation of James "Little Son" and Vera Williamson established that for the years 1980 through 1982 they omitted in excess of one-half million dollars in gross receipts from their joint income tax returns. The evidence also established that James Terry Williamson omitted in excess of one hundred thousand dollars from his joint income tax returns for the 1980-82 tax years. The large amount of gross receipts omitted form the joint returns of James Terry Williamson and James "Little Son' Williamson and Alice Williamson over a period of years is indicative, under the circumstances, of an ongoing criminal enterprise and substantial unreported income from illegal activities, including narcotics trafficking. He invested money in gold and jewelry. He used nominee names to transact his business at Peoples Bank of Mississippi. Both of these type transactions were used, according to his own statements to

conceal his recceipt and disposition of illegal funds from the government and to evade the payment of income tax on the monies derived from his illegal activities, including income from narcotics trafficking.

22. Based on the foregoing facts and circumstances, and the knowledge and experience of the Task Force members, I have probable cause to believe that Jack, "Big Boy" Williamson, James "Little Son" Williamson and James Terry Williamson are engaged in an ongoing continuing criminal enterprise and that the Williamsons store, Rt. 1, Ethel, Mississippi, residences and outbuildings of the property owned by the three Williamsons in the same area, vehicles and safe deposit boxes owned by the Williamsons are used for secretion of contraband, stolen property, books and records, illegally possessed firearms, and the fruits of their continuing joint criminal activity.

/s/ E. Avery Rollins, Jr.
E. Avery Rollins, Jr.
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me this the 27th day of November, 1984.

/s/ Donna P. Bynum
Donna P. Bynum
Notary Public

My Commission Expires:
October 31, 1988

SEARCH WARRANT ON WRITTEN AFFIDAVIT

United States District Court

UNITED STATES OF AMERICA
v.
Residence of James Terry Williamson
Route 2,
Ethel, Mississippi

DISTRICT
NORTHERN DISTRICT OF MISSISSIPPI

DOCKET NO.	MAGISTRATE'S CASE NO. 84-4020cc)

TO: Any Special Agents, Federal Bureau of Investigation, Internal Revenue Service, Bureau of Alcohol, Tobacco and Firearms

Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that (XXXXX XXXXXX) (on the premises known as)

(SEE ATTACHTED "PREMISES TO BE SEARCHED" WHICH IS INCORPORATED HEREIN AS IF SET OUT IN FULL)

in the Northern District of Mississippi there is now being concealed certain property, namely

(SEE ATTACHMENT "PROPERTY TO BE SEIZED" WHICH IS INCORPORATED HEREIN, AS IF SET OUT IN FULL)

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the

person or premises above-described and the grounds for application for issuance of the search of the search warrant exist as stated in the supporting affidavit(s).

YOU ARE HEREBY COMMANDED to search on or before of **December 7, 1984** not to exceed 10 days) the person or place named above for the property specified. serving this warrant and making the search (in the daytime—6:00 A.M. to 10:00P.M.)(at any time in the day or night)" and if the property be found there to seize it. leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the property seized and promptly return this warrant to **U.S. Mag. illegible** as required by law.

SIGNATURE OF JUDGE OR U.S. MAGISTRATE DATE,TIME ISSUED

Avery Rollins, Jr. /s/ illegible 11-27-84 5:09P.M.

"If a search is to be authorized at any time in the day or night" pursuant to Federal Rules of Criminal Procedure Rule 41(c). show reasonable cause hereto.

RETURN

DATE WARRANT RECEIVED
11/27/84

DATE AND TIME WARRANT EXECUTED
11/29/84 7:30 AM

COPY OF WARRANT AND RECEIPT FOR ITEM
James Terry Williamson

INVENTORY MADE IN THE PRESENCE OF
See below-listed names.

INVENTORY OF PROPERTY TAKEN PURSUANT TO THE WARRANT

INVENTORY: SEE ATTACHED.

Inventory Made in the Presence of:

Deborah L. Reincke - FBI;
Stephen E. Campbell - MBN;
Emmett B. Boozer - MHP;
Gary Mahaffey - USSS;
Keith Roberts - MABC;
Jack Taylor - DEA;
Steve L. Mallory - MBN;
Don Medley - ATF;
Ronald T. Hosko - FBI;
Charles R. Demski - ATF;
Brenda Gibson —IRS;
Maurice H. Lindsay - IRS;
Don Smith - ABC;
William O. Rives - FBI;

CERTIFICATION

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

/s/ illegible IRS CID

Subscribed sworn to and returned before me this date.

/s/ illegible 12-5-84

PREMISES TO BE SEARCHED

The premises, residence and out building of James Terry Williamson, Route 2, Ethel, Mississippi, being described as a one-story, ranchstyle, single-family dwelling with a gable-type roofline, and a reddish-beige brick exterior with coordinating trim facing in a southerly direction. The residence has fireplace located on the north side and two carports, one which is enclosed, located on the west side, and an open one on the north side. Immediately behind the residence is a slate gray Mitchell steel building, and adjacent to it and on the east side is a barn-type building.

The residence and out buildings owned by James Terry Williamson are located on a two-acre tract of land bordered on the south side by Mississippi Highway 14, and on the west side by a gravel road referred to as Doty Springs Road, all lying within the Southwest one-quarter of the Northwest one-quarter of Section 26, Township 14 North, Range 9 East, of Attala County, Mississippi. The driveway of said residence intersects with Doty Spring Road at a point which is in a northerly direction at approximately 225 feet from the point where Highway 14 and Doty Springs Road intersect. The intersection of Doty Springs Road and Highway 14 lies at a point which is approximately two (2) and four-tenths (4/10) miles in a southeasterly direction from the point where Highway 14 crosses the Attala/Winston County line.

The trailer/mobile home and outbuilding/shed next to said trailer located approximately one-fourth (1/4) mile north of Highway 14 on "Mundy Road" and located on the approximately forty (40) acres owned by James Terry Williamson. The intersection of "Mundy Road" and

Highway 14 is next to the Williamson store on the east side, being the same as the entrance to James "Little Son" Williamson's residence driveway.

PROPERTY TO BE SEIZED

1. Books, records, receipts, notes, ledgers, and other papers relating to the transportation, ordering, purchase, and distribution of controlled substances, in particular, cocaine and marijuana, Schedule II Narcotic Drug Controlled Substances.

2. Papers, tickets, notes, schedules, receipts, and other items relating to domestic travel, including, but not limited to, travel to, from, and between Ethel, Mississippi; Las Vegas, Nevada; Atlanta, Georgia; Memphis, Tennessee; Florida; and, Mexico.

3. Address and/or telephone books and papers reflecting names, addresses, and/or telephone numbers, including, but not limited to, names of, addresses for, and/or telephone numbers of Paul Gonzales; Robert Lee Anderson; Robert Allen Schaffer; John Oliver Hornung; W. A. Hardin; Ricky and/or Danny Faucett;

4. Books, records, receipts, bank statements and records, money drafts, letters of credit, money orders, and cashier's checks receipts, passbooks, bank checks, and other items evidencing the obtaining, secreting, transfer, and/or concealment of assets and the obtaining, secreting, transfer, concealment, and/or expenditure of money;

5. United States currency, precious metal, jewelry, and financial instruments, including, but not limited to stocks and bonds;

6. Counterfeit U. S. currency;

7. Photographs, in particular, photographs of co-conspirators, of assets, and/or of controlled substances, in particular, cocaine and marijuana;

8. Controlled substances, in particular, cocaine and marijuana;

9. Paraphernalia for packaging, cutting, weighing and distributing cocaine and/or marijuana, including, but not limited to, scales, baggies, and spoons;

10. Firearms, including, but not limited to, rifles, shotguns, pistols, revolvers, machine guns, and/or semiautomatic rifles that have been converted to full automatic, hand grenades, grenade launchers, rocket launchers, and/or any type of explosives, and any and all types of items which are a violation of Title 18, United States Code, Section 921, et. seq.;

11. Indicia of occupancy, residency, and/or ownership of the premises described above, including, but not limited to, utility and telephone bills, cancelled envelopes, and keys; and,

12. Any and all other material evidence of violations of 21 United States Code, Sections 841(a)(1), 843(b), 846, and 848, and 18 United States Code, Section 1952 (possession with intent to distribute and distribution of controlled substances, in particular, cocaine and marijuana, use of a communication facility to facilitate such possession and distribution; conspiracy to distribute and to possess with intent to distribute controlled substances, in particular, cocaine; engaging in a continuing criminal enterprise; and, interstate travel or transportation in aid of racketeering enterprise).

1 - Browning Mod BDA380 semi-pistol SN425PZ24730

1 - Magazine w/14 rounds for above

1 - Magazine w/12 rounds for above

1 - Magazine w/13 rounds for above

1 - Browning 12 ga. Magnum semi-auto shotgun SN 69V50239

7 - Magnum -4 buck rounds for above

51 - 12 ga Magnum rounds

1 - Navy 36 cal cap/ball revolv. SN10305

1 - Golden Eagle Mod 7000 .243 Winchester rifle SN N013819 w/scope

6 - rounds for above

1 - Remington Model 700 22-250 cal. boltaction SN 6624765 w/scope

5 - rounds for above

1 - Remington Mod 541 Custsom Sporter 22 cal. boltaction SN1273766 w/scope

7 - rounds/magazine for above

2 - Frequency devices - unknown makes, models

1 - S&W Model 49 38 sp.cal. SNIJ41973 w/5 rounds amno.

3 - Sony MC 90 cassette tapes

1 - S&W Mod. 29-2 SN N769492 w/6 rounds 44 mag. ammo

1 - Browning Light 12 12 ga. semiacto shotgun SN 74G44685 w/8 rounds buckshot

§2943 - various denominations

Miscellaneous papers including but not limited to phone, bank, sale records

1 - Browning Hi-power semi-auto pistol 9mm. SN 76C12259 w/14 rounds & mag.

4 - Magazine w/51 rounds ammo for above

3 - bills currency w/altered values

1 - Beretta Mod 950BS 25 cal semi auto pistol SN BER874510 w/8 rounds & maga.

1 - Colt AR-15 semi-auto rifle Mod SP1 .223 Cal. SN SP117683 w/magazine and 41 rounds

1 - Bulletproof vest

Documents re phone, Firearms, jewelry from bedroom

1 - S&W Mod 17-4 22 cal revolver SN 78K9666

1 - Colt single action Army 357 mag revolv. SN SA12657 w/6 rounds ammo.

1 - S&W Mod 19-3 .357 mag nickel plated SN 5K41076 w/ 6 rounds ammo

1 S&W Mod 66 .357 mag SN 4K50783 w/6 rounds ammo.

1 - Browning 12 ga. semi-auto shotgun SN 179057H

1 - Armalite AR-7 .22 cal Explorer SN 52065

1 - Remington Mod 550-1 22 cal semi-rifle no SN

1 - Remington Mod. 514 single shot 22 cal. rifle no SN

1 - S&W 44 mag. SN N910216 w/6 rounds ammo

1 - U.S. carbine 30 cal. SN 7160060 w/28 rounds

1 - Browning 3 in magnum 12 ga shotgun SN 20339 w/5 rounds

11 - 200 ml bottles Segram 7

3 200 ml bottle Segrams Extra-dry Gin

Assorted bank records, bills, statements, address books, car titles

14 bags of coins from under kitchen bay window weighing about 943 lbs (face value $3456.49)

1 - Photo album and photos

1 - Bathroom scale

8 - rounds Exploder 44 Mag ammo (8 rds.)

1 - Gold color chain about 20" w/nugget (ret. val. $380)

1 - Gold color chain about 30" (ret. val $795)

1 - Box 38 cal Exploder ammo (9 rds)

7 - assorted gold/silver colored rings w/clear stones
(ring 57 ret. val. $1700)
(ring 58 ret. val. 325)
(ring 59 ret. val. 290)
(ring 60 ret. val. 450)
(ring 61 ret. val. 800)
(ring 62 ret. val. 300)
(ring 63 ret. val. 1350)

1 - gold colored nugget (ret. val. $580)

6 - necklaces - 3 tangled - 2 silver & gold color (gold 2225 1 silver w/diamonds $750 1 silver w/heart $0) -1 30" ($1700), 1 20" ($230), 1 24" w/beads ($150)

1 - Photograph of Alligator in pond

1 - Telephone bill dated 3/11/84 for (601) 674-5302, consisting of seven pages in blue envelope

1 - Smith & Wesson Eastfield Model 916 Serial - BC18389 12 gauge shotgun with 2 rounds slug and 8 rounds buckshot

1 - Jar containing seeds that appear to be marijuana seeds